

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF

THE APPLICATION FOR RE-REGISTRATION OF

DEANN I. SPINK, L.P.N.

Applicant

ORDER ADOPTING STIPULATION

On October 25, 1999, Ms. Spink filed her application for reinstatement of her license to practice as practical nurse in the State of Wisconsin. Because Ms. Spink indicated on her application that disciplinary action had been taken against her license in the State of Arizona, she was asked to appear for oral examination in connection with her application and to appear before the board for oral interview. Ms. Spink appeared before the board at its meeting of March 3, 2000, and the board considered the application on that date.

The board and Ms. Spink thereafter entered into a Stipulation, by which the Board of Nursing (board) agreed to grant and Deann Spink, (applicant) agreed to accept a limited license to practice nursing in the State of Wisconsin imposing the following terms and conditions. Based upon the application and the Stipulation, the board orders as follows:

NOW, THEREFORE, IT IS ORDERED that the license of Deann I. Spinks, L.P.N., to practice as a practical nurse in Wisconsin, is hereby reinstated, and said license shall be limited as follows:

1. Applicant shall remain free of alcohol and prescription drugs and controlled substances not prescribed for valid medical purposes during the period of limitation.
2. The department monitor is the individual designated by the board as its agent to coordinate compliance with the terms of this Order, including: receiving and coordinating all reports and petitions; and requesting additional monitoring and surveillance. The department monitor may be reached as follows:

Department Monitor

Department of Regulation Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

FAX (608) 266-2264

TEL. (608) 267-7139

3. Applicant shall provide and keep on file with all treatment facilities and personnel, laboratories and collections sites current releases which comply with state and federal laws authorizing release of all of his or her urine, blood and hair specimen screen results and his or her medical and treatment records and reports to, and permitting his or her supervising health care provider and his or her treating physicians and therapists to disclose and discuss the progress of his or her treatment and rehabilitation with, the Board of Nursing or any member thereof, or with any employee of the Department of Regulation and Licensing acting under the authority of the Board of Nursing. Copies of these releases shall be filed simultaneously with the department monitor.

- 4 Applicant must participate in a program of random witnessed monitoring for controlled substances and alcohol in her urine, blood and/or hair on a frequency of not less than twice per year. If the board or her employer deems that blood or urine screens are warranted in addition to the base frequency established by this paragraph, applicant shall submit to such additional screens.

5. Applicant shall be responsible for obtaining a monitoring facility and reporting system acceptable to the board, as well as the costs incurred in conjunction with the monitoring and reporting required and any other expenses associated with compliance with the board's Order.

6. Applicant shall keep the monitoring facility informed of applicant's location and shall be available for contact at all times.

7. To be acceptable, specimen requests shall be random with respect to the hour of the day and the day of the week. In addition, the Board of Nursing or its designee may at any time request a random monitored urine, blood or hair specimen from applicant by directing the department monitor in the Department of Regulation and Licensing, Division of Enforcement to contact applicant and request that applicant provide a specimen.

8. All requested urine, blood or hair specimens shall be provided by applicant within five (5) hours of the request for the specimen. All urine specimen collections shall be a split sample accomplished by dividing urine from a single void into two specimen bottles. The total volume of the split sample shall be at least 45 ml. of urine. All split sample urine specimens, blood specimens and hair specimens shall be collected, monitored and chain of custody maintained in conformity with the collection, monitoring and chain of custody procedures set forth in 49 CFR Part 40. Urine specimen collections shall be by direct observation if:

(a) The applicant must provide an additional specimen because applicant's initial specimen was outside of the normal temperature range (32.5 - 37.7°C / 90.5 - 99.8°F) and he or she refuses to have an oral body temperature measurement or he does provide an oral body temperature measurement and the reading varies by more than 1°C / 1.8°F from the temperature of the urine specimen.

(b) Applicant's last provided specimen was determined by the laboratory to have a specific gravity of less than 1.003 and creatinine concentration below 0.2 g / l.

(c) The collection site person observes applicant acting in such a manner to provide reason to believe that applicant may have attempted or may attempt to substitute or adulterate the specimen. The collection site person, if he or she believes that the initial urine specimen may have been adulterated or a substitution made, shall direct applicant to provide an additional observed urine specimen.

(d) The last provided specimen resulted in a positive or suspected positive test result for the presence of controlled substances;

(e) The Board of Nursing or any member thereof or the Department Monitor, directs that the urine specimen collection be by direct observation.

If either of the above conditions (a) or (c) requires collection of an additional observed urine specimen, the collection of the subsequent specimen shall be accomplished within the required five (5) hours of the request for the initial specimen; the collection of the initial specimen shall not satisfy the requirement that the urine specimen be collected within five (5) hours of the request for the initial specimen.

9. The drug and alcohol monitoring program in which applicant is enrolled shall at all times utilize a United States Department of Health and Human Services certified laboratory for the analysis of all specimens collected from applicant.

10. The drug and alcohol monitoring program in which applicant is enrolled shall utilize only those urine, blood and hair specimen collection sites for collection of applicant's urine, blood or hair specimens as comply with the United States Department of Transportation collection and chain of custody procedures set forth in 49 CFR Part 40.

11. The supervising health care provider, laboratory and collection site shall maintain a complete and fully documented chain of custody for each urine, blood or hair specimen collected from applicant.

12. Every urine specimen collected from applicant shall be analyzed at the time of collection for tampering by measurement of the temperature of the specimen and the oral temperature of respondent. Every urine specimen collected from applicant shall be further analyzed at the laboratory for tampering by measuring the creatinine concentration and the specific gravity of the specimen. The laboratory may at its discretion or at the direction of a supervising health care provider or the Board of Nursing or any member thereof conduct additional tests to evaluate the urine specimen for tampering including, but not limited to, pH, color and odor.

13. Every urine, blood or hair specimen collected from applicant shall be analyzed for alcohol, amphetamine, cocaine, opiates, phencyclidine, marijuana, methadone, propoxyphene, methaqualone, barbiturates, benzodiazepines or the metabolites thereof. The Board of Nursing or its designated agent may at any time direct that screens for additional substances and their metabolites be conducted by scientific methods and instruments appropriate to detect the presence of these substances. The laboratory shall conduct confirmatory tests of positive or suspected positive test results by appropriate scientific methods and instruments including, but not limited to, gas chromatography and mass spectrometry.

14. All urine, blood or hair specimens remaining after testing shall be maintained in a manner necessary to

preserve the integrity of the specimens for at least seven (7) days; and all positive or suspected positive urine, blood or hair specimens remaining after testing shall be so maintained for a period of at least one (1) year. The supervising health care provider or the Medical Examining Board or any member thereof may direct that the urine, blood or hair specimens be maintained for a longer period of time.

15. For the purpose of further actions affecting applicant's license under this Order, it shall be presumed that all confirmed positive reports are valid. Applicant shall have the burden of proof to establish that the positive report was erroneous and that the applicant's specimen sample did not contain alcohol or controlled substances or their metabolites.

16. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, applicant shall promptly submit to additional tests or examinations as the supervising health care provider shall determine to be appropriate to clarify or confirm the positive or suspected positive urine, blood or hair specimen test results.

17. Applicant shall arrange for quarterly reports from her nursing employer(s) reporting the terms and conditions of her employment and evaluating her work performance. These reports shall be submitted to the department monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, WI 53708, on a schedule as directed by the department monitor. An employer shall report immediately to the department monitor (FAX 608 266-2264, telephone 608 267-7139) any violation or suspected violation of the board's Order.

18. Applicant shall report to the board any change in employment status, change of residence address or phone number, within five days of any such change.

19. Applicant may petition the board in conjunction with any application for a renewal of the license to revise or eliminate any of the above conditions. Denial of the petition in whole or in part shall not be considered a denial of a license and shall not give rise to a contested case within the meaning of Sec. 227.01(3)(a) and 227.42, Stats.

20. Violation of any of the terms of the board's Order shall be construed as conduct imperiling public health, safety and welfare and may result in summary suspension of applicant's license. The board in its discretion may in the alternative deny a renewal of the limited license or impose additional conditions and limitations and additional discipline for violation of any of the terms and conditions.

The effective date of this Order shall be the date of its signing.

Dated this 8th day of May, 2000.

STATE OF WISCONSIN

BOARD OF NURSING

by_____

Ann Brewer, R.N.

Chair